

U.S. DISTRICT JUDGE _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DEREK A. GIESEKE

Plaintiff

vs.

CAROLYN W. COLVIN,
Acting Commissioner SSA

Defendant.

CASE NO. 2:14 CV 1567
COMPLAINT

Plaintiff, complaining of the Defendant, does hereby allege that:

1.

Plaintiff is an adult resident of King County, Washington. His social security number is a matter of record with Defendant.

2.

Defendant is the Acting Commissioner of the Social Security Administration and at all times mentioned and relevant herein was in the exercise of her duties.

3.

Jurisdiction is conferred upon the court by 42 U.S.C. §405(g); 42 U.S.C. §1383(c) and the

1 due process clause of the 5th Amendment to the U.S. Constitution.

2 4.

3
4 Defendant has admitted that plaintiff filed claims for benefits previously on September 28,
5 1990 and March 20, 2003.

6 5.

7
8 An administrative law judge issued a partially favorable decision dated October 22, 2012.

9 Plaintiff appealed to the Appeals Council which denied the request for review in a decision
10 dated February 27, 2014. Plaintiff has exhausted all administrative remedies.

11 6.

12 Defendant possesses documents relevant to Plaintiff's prior September 28, 1990 application,
13 including but not limited to: the application and supporting documentation, medical
14 evidence, educational evidence, and vocational evidence. Despite requests, this evidence has
15 not been disclosed to plaintiff. Defendant has failed to fully and fairly develop the record.

16 7.

17 Defendant possesses documents relevant to Plaintiff's prior March 20, 2003 application,
18 including but not limited to: the application and supporting documentation, medical
19 evidence, educational evidence, and vocational evidence. Despite requests, this evidence has
20 not been disclosed to plaintiff. Defendant has failed to fully and fairly develop the record.

21 8.

22 The decision of the Defendant that the reopening of Plaintiff's prior claims is not warranted

1 within the meaning of the Social Security Act, case law, regulations and rulings is not
2 supported by substantial evidence and applies an erroneous standard of law. Plaintiff is
3 mentally handicapped and pursued his initial claim without the assistance of counsel.
4 Plaintiff's claims are subject to reopening under SSR 91-5p. The Defendant's adverse
5 decision violates Plaintiff's right to due process of law.

6
7 WHEREFORE, the Plaintiff demands judgment as follows:
8

9 9.

10 That the decision of the Defendant be reviewed and set aside and that the Plaintiff's
11 prior claims for a period of disability and disability insurance benefits and SSI benefits be
12 reopened and adjudicated.

13 10.

14 That the court award Plaintiff costs of court, expenses and reasonable attorney fees; and that
15 the court grant such other and further relief as it deems just and proper.

16
17 Respectfully submitted this 10th day of October, 2014.

18
19 /s/ GEORGE ANDRE FIELDS
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